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DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

8 CFR Parts 103 and 235

Docket No. USCBP-2013-0029

CBP Decision No. 16-20

RIN 1651-AB01

The U.S. Asia-Pacific Economic Cooperation Business Travel Card Program

AGENCY: U.S. Customs and Border Protection; Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This rule adopts as final, with two changes, interim amendments to the Department of Homeland Security's (DHS) regulations published in the **Federal Register** on May 13, 2014 establishing the U.S. Asia-Pacific Economic Cooperation (APEC) Business Travel Card Program. The U.S. APEC Business Travel Card Program provides qualified U.S. business travelers engaged in business in the APEC region, or U.S. Government officials actively engaged in APEC business, the ability to access fast-track immigration lanes at participating airports in foreign APEC economies.

DATES: This rule is effective on [INSERT DATE THIRTY DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**].

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I. Background

A. The Asia-Pacific Economic Cooperation Business Travel Card Program

The United States is a member of APEC, which is an economic forum comprised of twenty-one members whose primary goal is to support sustainable economic growth and prosperity in the Asia-Pacific region.¹ One of APEC's business facilitation initiatives is the APEC Business Travel Card (ABTC) Program. The operating procedures for the ABTC Program are set out in the APEC Business Travel Card Operating Framework (APEC Framework).² Under the ABTC Program, APEC members can issue cards to business travelers and senior government officials who meet certain criteria. The cards provide simpler, short-term entry procedures within the APEC region.

B. U.S. Participation in ABTC

On November 12, 2011, President Obama signed the Asia-Pacific Economic Cooperation Business Travel Cards Act of 2011 (APEC Act). Pub. L. 112-54, 125 Stat. 550. The APEC Act authorizes the Secretary of Homeland Security, in coordination with the Secretary of State, to issue ABTCs through September 30, 2018 to any eligible person, including business persons and U.S. Government officials actively engaged in APEC business. On May 13, 2014, U.S. Customs and Border Protection (CBP) published an interim final rule (IFR) in the **Federal Register** (79 FR 27161) amending the DHS regulations to establish the U.S. ABTC Program and an application fee. See 8 CFR 235.13 and 8 CFR 103.7.

The IFR became effective on June 12, 2014 and on that date CBP began issuing its own ABTCs (U.S. ABTCs) to qualified U.S. citizens. As provided in the IFR, the U.S. ABTC

¹ APEC members are also referred to as 'economies' since the APEC process is primarily concerned with trade and economic issues with the members engaging each other as economic entities. The most recently updated list of members is available at the APEC website at www.apec.org/About-Us/About-APEC/Member-Economies.aspx. For simplicity, CBP will generally refer to them in the preamble of this document as APEC members.

² Although participating members intend to follow the operating principles and procedures outlined, the document is not legally binding. The most recent version of the APEC Framework is Version 19, dated July 7, 2015.

Program is a voluntary program designed to facilitate travel for bona fide U.S. business persons engaged in business in the APEC region and U.S. government officials actively engaged in APEC business within the APEC region. To participate in the program, an individual must be an existing member, in good standing, of an eligible CBP trusted traveler program or be approved for membership in an eligible CBP trusted traveler program during the U.S. ABTC application process.³ The application process requires the applicant to self-certify that he or she is a bona fide business person who is engaged in the trade of goods, the provision of services or the conduct of investment activities, or is a U.S. Government official actively engaged in APEC business. The applicant must also provide a signature, which appears on the face of the U.S. ABTC. CBP collects the applicant's signature at a CBP trusted traveler enrollment center.

Successful applicants receive a U.S. ABTC that enables them to access fast-track immigration lanes at participating airports in foreign APEC member economies. In order to obtain a U.S. ABTC, an individual must meet the eligibility requirements, apply in advance, pay the requisite fee and be approved as a card holder. Details about the program eligibility criteria, the application process, the fee, the benefits, and other aspects of the program, are set forth in the preamble of the IFR, 8 CFR 235.13, and 8 CFR 103.7.

II. Discussion of Comments

A. Overview

Although the interim regulatory amendments were promulgated without prior public notice and comment procedures pursuant to the foreign affairs exemption in 5 U.S.C. 553(a)(1), the IFR provided for the submission of public comments that would be considered before adopting the interim regulations as a final rule. The prescribed 30-day public comment period closed on June 12, 2014.

³ For purposes of the U.S. ABTC Program, eligible CBP trusted traveler programs include Global Entry, NEXUS, and SENTRI.

During this time, CBP received submissions from five commenters. All five commenters were strongly in support of the U.S. ABTC Program and expressed appreciation for the introduction of the program. Nonetheless, the commenters presented ideas for how to improve the program, and one commenter noted that our calculation of a benefit accrued through the U.S. ABTC was inaccurate. CBP has grouped the issues by topic and provides responses below.

B. Discussion

1. Overseas Interviews and Signature Collection

Comment: All five of the commenters noted that many of the U.S. ABTC applicants will be U.S. business people living and working abroad, who make limited trips to the United States. The commenters asserted that requiring applicants to be physically present in the United States to obtain a U.S. ABTC will reduce the number of applicants and will limit the accessibility of the program. To address these concerns, four of the commenters recommended that CBP conduct enrollment interviews for the CBP trusted traveler programs overseas, and all five of the commenters asked that CBP provide a way for U.S. ABTC signatures to be collected abroad. The commenters suggested several different methods for CBP to conduct enrollment interviews and/or collect signatures overseas, either on a regular basis or intermittently. Their suggestions include having CBP use U.S. embassies or consulates in the Asia-Pacific region, having CBP open a regional office in Asia, or having CBP schedule appointments for interviews and/or signature collections around major U.S. regional business events, such as the annual meeting of the Asia Pacific Council of American Chambers of Commerce. The commenters remarked that conducting enrollment interviews and signature collections overseas would increase the number of applicants for U.S. ABTCs and would allow individuals to obtain a U.S. ABTC more quickly because individuals will not have to wait until they are traveling to the United States to do their interview and provide their signature.

Response: CBP appreciates the commenters' suggestions for alternative arrangements for CBP trusted traveler interviews and ABTC signature collections, but is unable to implement any of them at this time. The personal interview and signature collection process is an integral part of the CBP trusted traveler and U.S. ABTC application processes and these are done at CBP trusted traveler enrollment centers located throughout the United States. CBP does not have the facilities or resources to regularly conduct interviews and collect signatures outside CBP trusted traveler enrollment centers. Furthermore, in order to maintain the integrity of the CBP trusted traveler and ABTC programs, only CBP officers are authorized to conduct interviews, obtain signatures, and approve applications in the Global On-Line Enrollment System (GOES). These functions cannot be delegated to the Department of State or any other entity.

While CBP recognizes that some applicants may find it inconvenient to travel to the continental United States for their CBP trusted traveler program interview and U.S. ABTC signature collection, CBP would like to highlight that there are trusted traveler enrollment centers located in Hawaii and Guam. Furthermore, CBP is encouraged by the fact that there has been a steady stream of applicants thus far, indicating that many people have been able to obtain U.S. ABTCs through the current system. As of December 2015, nearly 21,000 applications have been submitted for the U.S. ABTC Program.⁴

2. Appointment Scheduling for Signature Collection

Comment: Two commenters asked CBP to definitively state that an applicant does not need to schedule an appointment for signature collection if the applicant is already a member of a CBP trusted traveler program. Both commenters noted that the FAQs explicitly state that no appointment is necessary while some of the preamble language in the IFR suggests otherwise.

⁴ Source: Email correspondence with CBP's Office of Field Operations on February 10, 2016.

Response: Applicants for the U.S. ABTC Program who are already members of a CBP trusted traveler program do not need to schedule an appointment for signature collection. Applicants should be aware, however, that if they arrive at an enrollment center without an appointment, they may have to wait a considerable length of time before a CBP officer is able to process their signature. By scheduling an appointment, applicants can prevent long wait-times and allow for better time management by CBP officers at enrollment centers. As such, although appointments are not necessary, they are encouraged.

3. Benefits of the U.S. ABTC Program

Comment: One commenter indicated that the average amount of time a U.S. ABTC holder saves on account of the expedited entry procedures associated with the U.S. ABTC Program is greater than anticipated in the IFR. The commenter noted that the actual benefit to a U.S. ABTC holder is greater than the average calculated time savings of 43 minutes per trip because travelers can save a significant amount of time by arriving at the airport later and by catching flights that they would have otherwise missed if not for the U.S. ABTC Program's fast-track immigration clearance.

Response: CBP believes the weighted average time savings of approximately 43 minutes is an appropriate estimate of the time savings a U.S. ABTC holder will receive when clearing foreign immigration services using the fast-track immigration lanes. To the extent that this estimate understates the time saved by U.S. ABTC holders, the benefits of the rule will be higher. Similarly, to the extent that U.S. ABTC holders are able to catch flights they would have otherwise missed due to lengthy immigration waits, the benefits of this rule will be higher.

4. Self-Certification

Comment: One commenter asked that CBP ease the "manner for determining business travel eligibility" by allowing applicants to self-certify their status as a business traveler.

Response: The U.S. ABTC Program already allows for such self-certification. When applying for the U.S. ABTC, an applicant must complete and submit an application electronically through the GOES website. During the application process, the applicant is prompted to self-certify that he or she is a bona fide business person who is engaged in the trade of goods, the provision of services or the conduct of investment activities, or is a U.S. Government official actively engaged in APEC business, and that he or she is not a professional athlete, news correspondent, entertainer, musician, artist, or person engaged in a similar occupation. See 8 CFR 235.13(c)(2).

III. Conclusion – Regulatory Amendments

After careful consideration of the comments received, CBP is adopting the interim regulations published May 13, 2014 as a final rule with the following two changes. First, CBP is changing the validity period of U.S. ABTCs from three years to five years based on revisions in the APEC Framework. Second, CBP is removing all references in the U.S. ABTC regulation to suspension from the program because CBP does not use suspension as a remedial action. Further details about these changes are discussed below. DHS believes that this rule is excluded from APA rulemaking requirements as a foreign affairs function of the United States pursuant to 5 U.S.C. 553(a)(1) because it advances the President’s foreign policy goal of facilitating business travel within the APEC region and allows the United States to fulfill its intent under the multilateral APEC Framework. Accordingly, these changes are exempt from notice and comment rulemaking generally required under 5 U.S.C. 553.

A. Change in Validity Period

The IFR provided that the U.S. ABTC is valid for three years or until the expiration date of the card holder’s passport if that is earlier, provided participation is not terminated by CBP prior to the end of this period. See 8 CFR 235.13(c)(6). However, the IFR noted that any

subsequent revisions to the APEC Framework that directly affect the U.S. ABTC may require regulatory changes.⁵

The most recent version of the APEC Framework (Version 19) extended the validity period of ABTCs to “a maximum period of five years”. (APEC Framework 3.8.1). The Business Mobility Group (BMG), an APEC working group comprised of representatives from all member economies, is responsible for updating the APEC Framework. The BMG has indicated that the ABTC Program is on a trajectory towards requiring a five-year validity period for all ABTCs. Given the time constraints of some participating members’ domestic procedures, however, the BMG acknowledges that it may take a significant amount of time for some members to be able to comply with this expectation. Accordingly, provision 3.8.1 of the APEC Framework allows for some variability in validity periods while member economies work towards reaching the goal of extending the validity period of new ABTCs to five years.

In keeping with the United States’ intent to follow APEC’s operating principles and procedures, CBP is changing the validity period for U.S. ABTCs to five years. Accordingly, CBP is revising 8 CFR 235.13(c)(6) by replacing “3 years” with “five years”. Individuals who submit a U.S. ABTC application or renewal request on or after [INSERT THIRTY DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**] will be eligible to receive a U.S. ABTC with a five-year validity period.⁶ This change in validity period does not apply to current U.S. ABTC holders, whose cards will remain valid only until the date printed on their card, subject to earlier revocation by CBP.

⁵ Footnote 11 of the IFR states, “The current version of the APEC Framework is Version 17, agreed to on January 30, 2013. Any subsequent revisions to the APEC Framework that directly affect the U.S. ABTC may require a regulatory change”.

⁶ If the card holder’s passport will expire before the end of the validity period, CBP will issue the U.S. ABTC with a shorter validity period that matches the passport expiration date. See 8 CFR 235.13(c)(6).

CBP notes that this change in validity period will be beneficial to many new U.S. ABTC holders, as they will be able to avail themselves of the program for two additional years. The extension in validity period will also be beneficial to many U.S. ABTC holders in the event that Congress extends the APEC Act.⁷ Should the U.S. ABTC Program be extended, individuals who apply concurrently for the U.S. ABTC and a CBP trusted traveler program will be able to take advantage of a more streamlined renewal process. Currently, Global Entry, NEXUS, and SENTRI memberships are all valid for a period of five years, whereas the U.S. ABTC Program membership is only valid for three years. Accordingly, individuals who apply for both programs concurrently must renew their U.S. ABTCs after three years, then renew their CBP trusted traveler program membership two years later. By extending the validity period of the U.S. ABTC to five years, these individuals will be able to initiate the renewal process for both programs at the same time.

B. Removal of References to Suspension from the Program

Although 8 CFR 235.13(f) addresses situations in which an applicant may be suspended or removed from the program, CBP no longer uses suspension as a remedial action. In the event that CBP action is necessary under 8 CFR 235.13, CBP removes the U.S. ABTC holder from the program. Accordingly, CBP is removing all references to “suspension” and “suspended” from § 235.13(f) and from § 235.13 (c), (g), and (h), which also refer to “suspension” and “suspended”. This change is also in line with the APEC Framework, which provides for cancellation but not suspension of ABTCs.

IV. Statutory and Regulatory Requirements

A. Executive Order 13563 and Executive Order 12866

⁷ The APEC Act authorizes the Secretary to issue U.S. ABTCs only through September 30, 2018. Unless the law is amended to extend that date, CBP will not issue any new U.S. ABTCs or renew any U.S. ABTCs after September 30, 2018. U.S. ABTC holders will retain their membership in the U.S. ABTC Program for the full validity period (even if the validity period extends past September 30, 2018) unless membership is revoked earlier.

Executive Orders 13563 and 12866 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule is not a “significant regulatory action,” under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget has not reviewed this rule. CBP has prepared the following analysis to help inform stakeholders of the potential impacts of this final rule.

1. Synopsis

This rule adopts as final the interim final rule establishing the U.S. ABTC Program with the following changes: it expands the validity period for new U.S. ABTCs and it removes all references to suspension from the program.⁸ CBP largely adopts the economic analysis for the U.S. ABTC Program’s IFR for this final rule. However, this final rule analysis incorporates recent changes to the IFR’s U.S. ABTC validity period, applicant projections, application and renewal burdens, and program impacts.

Pursuant to the authorizing statute, the Secretary of Homeland Security is authorized to set a U.S. ABTC Program fee. CBP has determined that a \$70 fee is necessary to recover its costs of administering the U.S. ABTC Program.⁹ As shown in Table 1, initial U.S. ABTC applicants incur the \$70 U.S. ABTC fee and an opportunity cost associated with obtaining a U.S. ABTC. Because participation in a CBP trusted traveler program is a prerequisite for obtaining a U.S. ABTC,

⁸ 79 FR 27167, May 13, 2014.

⁹ CBP performed a fee study to determine the yearly costs of the program and the cost to establish the program for all relevant parties. This fee study, entitled “Asia-Pacific Economic Cooperation Business Travel Card Fee Study,” is posted on the docket as supplemental materials on www.regulations.gov.

individuals who are not already members of such a program need to concurrently apply for a U.S. ABTC and a CBP trusted traveler program, and pay the programs' applicable fees. CBP assumes that individuals not already in a CBP trusted traveler program will choose to join Global Entry because it, like the U.S. ABTC Program, provides expedited clearance in the air environment. The application fee for Global Entry is currently \$100.¹⁰ CBP estimates the opportunity cost to initially obtain a U.S. ABTC for those who are already members of a CBP trusted traveler program to be \$73.69. CBP estimates the opportunity cost to initially obtain a U.S. ABTC for individuals who are not members of a CBP trusted traveler program to be \$105.27. Accounting for application fees and opportunity costs, the total cost of initially obtaining a U.S. ABTC ranges from almost \$144 for U.S. ABTC applicants who are already in a CBP trusted traveler program to \$275 for U.S. ABTC applicants who are not already in a CBP trusted traveler program, as shown in Table 1. Table 1 also shows that the costs to renew U.S. ABTCs are much lower than these initial application costs. CBP will provide additional details about these estimates later in the analysis.

The U.S. ABTC Program is a voluntary program that enables card holders to access fast-track immigration lanes at participating airports in the 20 other APEC member economies.¹¹ CBP estimates that U.S. ABTC holders will experience a time savings of approximately 43 minutes when clearing foreign immigration services using the fast-track immigration lanes.¹² As the U.S. ABTC Program is voluntary, the perceived benefits of reduced wait time have to equal or exceed the cost of the program over five years (the new validity period of the U.S. ABTC) for new potential enrollees to determine whether the program is worthwhile. As discussed later in further detail, CBP estimates

¹⁰ 8 CFR 103.7.

¹¹ Asia-Pacific Economic Cooperation, "Member Economies." Available at <http://www.apec.org/About-Us/About-APEC/Member-Economies.aspx>. Accessed July 8, 2015.

¹² Based on data from Asia-Pacific Economic Cooperation. "Reducing Business Travel Costs: The Success of APEC's Business Mobility Initiatives." November 2011. Available at http://publications.apec.org/publication-detail.php?pub_id=1214. Accessed May 23, 2012.

that a U.S. ABTC applicant who is already enrolled in a CBP trusted traveler program will need to take a minimum of four trips across the U.S. ABTC's five-year validity period for the benefits of the U.S. ABTC Program to exceed the costs associated with joining the program. Additionally, CBP estimates that a U.S. ABTC applicant who is not already a CBP trusted traveler member will need to take a minimum of six trips between the United States and an APEC economy over the five-year validity period for the benefits of the U.S. ABTC Program to exceed the costs associated with joining the program. Current U.S. ABTC holders will need to take even fewer trips per year for the benefits of renewing their program memberships to outweigh the costs.

Table 1. Total Cost By Applicant Type

Applicant Type	Cost Category	Initial Costs	Renewal Costs
U.S. ABTC Applicants Already in a CBP Trusted Traveler Program	U.S. ABTC Fee	\$70	\$70
	Global Entry Fee *	n/a	n/a
	U.S. ABTC Opportunity Cost [†]	\$73.69 (1.17 hrs)	\$10.53 (0.17 hrs)
	Total (rounded to nearest \$100)	\$144	\$81
U.S. ABTC Applicants <u>Not</u> Already in a CBP Trusted Traveler Program	U.S. ABTC Fee	\$70	\$70
	Global Entry Fee *	\$100	\$100
	U.S. ABTC and Global Entry Opportunity Cost [†]	\$105.27 (1.67 hrs)	\$10.53 (0.17 hrs)
	Total (rounded to nearest \$100)	\$275	\$181

* CBP anticipates that those U.S. ABTC applicants who must choose a CBP trusted traveler program when applying for the U.S. ABTC will choose to join Global Entry because, like the U.S. ABTC Program, Global Entry provides expedited clearance in the air environment.

[†] This value is based on the U.S. Department of Transportation's (DOT) guidance regarding the valuation of travel time for business travelers in 2013 U.S. dollars, adjusted to 2017 U.S. dollars using the DOT's recommended annual growth rate of one percent. Source: U.S. Department of Transportation, Office of Transportation Policy. The Value of Travel Time Savings: Departmental Guidance for Conducting Economic Evaluations Revision 2 (2015 Update). "Table 4 (Revision 2-corrected): Recommended Hourly Values of Travel Time Savings." 2015. Available at <http://www.transportation.gov/sites/dot.gov/files/docs/Revised%20Departmental%20Guidance%20on%20Valuation%20of%20Travel%20Time%20in%20Economic%20Analysis.pdf>. Accessed February 16, 2016.

Note: There are two categories of U.S. ABTC applicants: those who are already in a CBP trusted traveler program and those who are not. CBP does not consider the cost of joining a CBP trusted traveler program for those applicants who are already members of a CBP trusted traveler program. These applicants have already, independent of any decision to join the U.S. ABTC Program, determined that the benefits of a CBP trusted traveler program outweigh the costs associated with the program they have chosen to join.

2. Background

The U.S. ABTC Program is a voluntary program that allows U.S. citizens with U.S. ABTCs to access fast-track immigration lanes at participating airports in the 20 other APEC member economies. In order to be eligible for a U.S. ABTC, a U.S. citizen is required to be a bona fide business person engaged in business in the APEC region or a U.S. Government official actively engaged in APEC business. Additionally, the U.S. ABTC applicant must be a member in good standing of a CBP trusted traveler program or approved for membership in a CBP trusted traveler program during the U.S. ABTC application process. U.S. ABTC applicants who are not already CBP trusted traveler program members must also apply for membership to a CBP trusted traveler program with their U.S. ABTC application.¹³ Since the publication of the U.S. ABTC IFR, APEC members (including the United States) endorsed increasing the validity period of the ABTC to “a maximum period of five years.” However, APEC’s BMG has indicated that the ABTC Program is on a trajectory towards requiring a five-year validity period for all ABTCs. In keeping with the United States’ intent to follow APEC’s operating principles and procedures, CBP is changing the validity period for U.S. ABTCs from three years to five years (or until the expiration date of the card holder’s passport if that is earlier) through this rule. With this expansion, the U.S. ABTC’s validity period will now match that of CBP’s trusted traveler programs.

Individuals who submit a U.S. ABTC application or renewal request on or after this final rule’s effective date may be eligible to receive a U.S. ABTC with a five-year validity period. If the card holder’s passport will expire before the end of the five-year validity period, CBP will issue the U.S. ABTC with a shorter validity period that matches the passport expiration date. If the card

¹³ As stated in the U.S. ABTC IFR, CBP assumes that a U.S. ABTC applicant who is not already a member of a CBP trusted traveler program will concurrently apply for a CBP trusted traveler program and a U.S. ABTC.

holder's CBP trusted traveler program membership expires during their U.S. ABTC's validity period, CBP may revoke the U.S. ABTC since membership in a CBP trusted traveler program is necessary for the entire duration of the U.S. ABTC. This change in validity period does not apply to current U.S. ABTC holders, whose cards will remain valid only until the date printed on their card, subject to earlier revocation by CBP. Similar to CBP trusted traveler programs, a U.S. ABTC holder will be required to renew his or her membership prior to expiration to continue enjoying the benefits of the program.

3. U.S. ABTC Applicant Categories

There are two categories of initial U.S. ABTC applicants (i.e., individuals who are not renewing their U.S. ABTC membership) that CBP discusses separately in this analysis: those who are already part of a CBP trusted traveler program and those who are not. This distinction is necessary because those applicants who are not already part of a CBP trusted traveler program will bear an additional opportunity cost and fee associated with applying for a CBP trusted traveler program to be eligible for a U.S. ABTC.

a. U.S. ABTC applicants who are already members of a CBP trusted traveler program

If an initial U.S. ABTC applicant is already a member of a CBP trusted traveler program, the applicant will have to apply for a U.S. ABTC by self-certifying, via the GOES website, that: he or she is an existing member in good standing in a CBP trusted traveler program; he or she is either a bona fide U.S. business person engaged in business in the APEC region or a U.S. Government official actively engaged in APEC business; and he or she is not a professional athlete, news correspondent, entertainer, musician, artist, or person engaged in a similar occupation. In addition to the self-certification, the U.S. ABTC applicant will also be required to pay the U.S. ABTC fee via the GOES

website and visit a CBP trusted traveler enrollment center in order for his or her signature to be digitally captured for the U.S. ABTC. CBP estimates that U.S. ABTC applicants will experience an opportunity cost of 10 minutes to complete the U.S. ABTC self-certification, pay the U.S. ABTC fee, and have their signature digitally captured at an enrollment center.¹⁴ These applicants will also experience a one-hour opportunity cost to travel to and from an enrollment center and wait to have their signature digitally captured. For the purposes of this rule, CBP does not consider the costs or benefits of joining a CBP trusted traveler program as impacts of this rule for those U.S. ABTC Program applicants who are already members of a CBP trusted traveler program. These applicants have previously, independent of any decision to join the U.S. ABTC Program, determined that the benefits of a CBP trusted traveler program outweigh the costs associated with the program they have chosen to join. They have not chosen to join the U.S. ABTC Program as a direct result of this rule.

b. U.S. ABTC applicants who are not already members of a CBP trusted traveler program

An initial U.S. ABTC applicant who is not already a member of a CBP trusted traveler program will be required to apply for a U.S. ABTC and a CBP trusted traveler program, and self-certify that: he or she has submitted an application to a CBP trusted traveler program; he or she is either a bona fide U.S. business person engaged in business in the APEC region or a U.S. Government official actively engaged in APEC business; and he or she is not a professional athlete, news correspondent, entertainer, musician, artist, or person engaged in a similar occupation. Because these applicants would not have joined a CBP trusted traveler program if not for the U.S. ABTC Program, CBP includes the costs and benefits for these applicants to join these programs in this analysis.

¹⁴ 80 FR 1650, January 13, 2015.

CBP anticipates that those initial U.S. ABTC applicants who must choose a CBP trusted traveler program when applying for the U.S. ABTC Program will choose to join Global Entry because, like the U.S. ABTC Program, Global Entry provides expedited clearance in the air environment. As described in the Global Entry final rule, CBP estimates that a Global Entry applicant will experience an opportunity cost of 40 minutes to complete the Global Entry application in GOES.¹⁵ When concurrently applying for a U.S. ABTC and Global Entry, CBP anticipates that the U.S. ABTC applicant will be able to complete the Global Entry application, complete the U.S. ABTC self-certification, schedule their required Global Entry enrollment interview, pay the program application fees, and have their signature digitally captured for the U.S. ABTC Program in the 40 minutes estimated for the Global Entry application.¹⁶ Based on the Global Entry final rule, CBP estimates that Global Entry applicants also applying for a U.S. ABTC will experience an opportunity cost of one hour to travel to and from a CBP trusted traveler enrollment center and undergo the required Global Entry interview.¹⁷

4. Number of U.S. ABTC Applicants

In the U.S. ABTC IFR, CBP projected that 12,750 U.S. citizens would enroll in the U.S. ABTC Program within the first three years of the program's start date based on National Center for Asia-Pacific Economic Cooperation¹⁸ estimates.¹⁹ Between the U.S. ABTC IFR's effective date in FY 2014 and December 2015, CBP has received nearly 21,000 initial U.S. ABTC Program

¹⁵ 77 FR 5681, February 6, 2012.

¹⁶ As described above, the self-certification only entails certifying in GOES that the U.S. ABTC applicant is an existing member in good standing in a CBP trusted traveler program or that he or she has submitted an application to a CBP trusted traveler program; that he or she is either a bona fide U.S. business person engaged in business in the APEC region or a U.S. Government official actively engaged in APEC business; and that he or she is not a professional athlete, news correspondent, entertainer, musician, artist, or person engaged in a similar occupation.

¹⁷ 77 FR 5681, February 6, 2012.

¹⁸ The National Center for Asia-Pacific Economic Cooperation is a U.S. business association focused on facilitating the private sector input into the APEC process.

¹⁹ See <http://csis.org/publication/why-us-approval-apec-business-travel-card-matters>.

applications, exceeding the IFR's projections.²⁰ Based on worldwide ABTC growth, CBP expects to receive new, initial U.S. ABTC applications past the first three years of the U.S. ABTC's implementation, which contrasts to the U.S. ABTC IFR's assumption that initial applicants would occur in only a three-year period.²¹ To project U.S. ABTC application volumes following this final rule's implementation, CBP first uses the latest data available to determine a base value for future applications. During the first three months of FY 2016 (October 2015 to December 2015), CBP received 1,163 U.S. ABTC applications that corresponded to current CBP trusted traveler program members and 2,423 that did not.²² CBP then extrapolates this partial-year data to the full 2016 fiscal year by multiplying the three-month totals of historical FY 2016 application data according to the applicant type (1,163 for applicants already in a CBP trusted traveler program and 2,423 for applicants not already in a CBP trusted traveler program) and multiplying each of the totals by 4 to account for 12 months, or a full year, of application volumes. Through this estimation method, CBP finds that 4,652 of the projected new, initial U.S. ABTC Program applications in FY 2016, the base year, will correspond to individuals who are already CBP trusted traveler program members, while 9,692 new, initial U.S. ABTC applications will correspond to individuals who are not already CBP trusted traveler program members (see Table 2).²³ CBP chose to use extrapolated FY 2016 data rather than the FY 2015 statistics as a base for future U.S. ABTC demand because the partial-year FY 2016 data

²⁰ The total U.S. ABTC applications figure represents applications received between the U.S. ABTC Program's interim effective date of June 12, 2014 through December 2015. Source: Email correspondence with CBP's Office of Field Operations on August 12, 2015 and February 10, 2016.

²¹ According to APEC, the ABTC "has experienced significant growth in recent years. The number of active card users in the year to 30 June 2015 increased by more than 15 per cent, to over 190,000, compared to around 164,000 in mid-2014." Source: Asia-Pacific Economic Cooperation. "APEC Business Travel Card to be Extended to Five Years from 1 September." 2015. Available at http://www.apecsec.org.sg/Press/News-Releases/2015/0728_ABTC.aspx. Accessed March 3, 2016.

²² Source: Email correspondence with CBP's Office of Field Operations on February 10, 2016.

²³ 1,163 U.S. ABTC applications corresponding to individuals who are already in a trusted traveler program received during first three months of fiscal year 2016 x 4 = 4,652. 2,423 U.S. ABTC applications corresponding to individuals who are not already in a trusted traveler program received during first three months of fiscal year 2016 x 4 = 9,692.

indicated an increase in the second year of total U.S. ABTC applications, which is consistent with CBP expectations of program growth in this time period.

Given the newness of the U.S. ABTC Program and its subsequently limited historical data available to establish a specific longer term growth rate in U.S. ABTC applications, CBP assumes that the total number of U.S. ABTC applications projected for FY 2016 will remain the same for FY 2017 and FY 2018. Accordingly, CBP estimates that 4,652 new, initial U.S. ABTC Program applications each year from individuals who are already CBP trusted traveler program members and 9,692 new, initial U.S. ABTC applications from individuals who are not already CBP trusted traveler program members (see Table 2). In accordance with the U.S. ABTC's authorizing law, CBP does not plan to issue any new U.S. ABTCs or renew any U.S. ABTCs after September 30, 2018, the end of FY 2018. Unless the law is amended to extend the duration of U.S. ABTC issuance, all U.S. ABTCs will expire within a five-year validity period lasting up to September 29, 2023. Therefore, CBP does not forecast any new applications beyond FY 2018 and assumes that no new U.S. ABTCs will be issued thereafter for the purposes of this analysis. Table 2 presents the historical and projected initial applications for the U.S. ABTC Program. As Table 2 shows, CBP estimates that almost 61,000 U.S. citizens will initially apply for the U.S. ABTC Program during the period of analysis spanning from FY 2014 through FY 2018, with 21,000 applicants already possessing a CBP trusted traveler program membership and 40,000 applicants not already CBP trusted traveler program members. CBP assumes that each application signifies a single, unique applicant.

Table 2. Historical and Projected Numbers of U.S. ABTC Applicants Already and Not Already in a CBP Trusted Traveler Program²⁴

Fiscal Year	Number of Initial U.S. ABTC Applicants Already in a CBP Trusted Traveler Program	Number of Initial U.S. ABTC Applicants <u>Not</u> Already in a CBP Trusted Traveler Program	Total Initial U.S. ABTC Applications
2014*	2,126	2,477	4,603
2015	4,976	8,138	13,114
2016**	4,652	9,692	14,344
2017***	4,652	9,692	14,344
2018***	4,652	9,692	14,344
Total	21,058	39,691	60,749

*Partial year of historical data spanning from the U.S. ABTC Program's effective date of June 12, 2014 to the end of FY 2014.

**Estimate based on historical data spanning from start of October 2015 to December 2015 and data extrapolated for the remaining months of FY 2016.

***Projection.

Although CBP received nearly 21,000 initial U.S. ABTC applications between June 2014 and December 2015, the agency only processed around 18,000 applications during that time period. Of those applications processed, CBP approved 88 percent on average.²⁵ During FY 2016, and before the implementation of this final rule and its establishment of a new U.S. ABTC validity period in FY 2017, CBP assumes that the agency will process the backlog of U.S. ABTC Program applications as well as new applications submitted in FY 2016. This would result in the processing of 17,370 initial U.S. ABTC applications in FY 2016. CBP also assumes that the agency will approve 88 percent of these applications, which would bring the total U.S. ABTC Program membership up to 28,303 by the end of FY 2016 (see Table 3). For initial U.S. ABTC applications received from FY 2017 to FY 2018, CBP assumes that it would maintain a processing rate equal to its projected application rate,

²⁴ Although the accompanying U.S. ABTC fee study includes CBP's costs related to the processing and printing of 5,000 Canadian ABTCs, CBP excludes these costs from this analysis because Canadian ABTC enrollees are not members of the U.S. ABTC Program and CBP is reimbursed for the costs associated with processing their applications.

²⁵ From June 2014 through December 2015, CBP approved 15,854 U.S. ABTC applications and denied 2,166 U.S. ABTC applications, for an approval rate of 88 percent. Source: Email correspondence with CBP's Office of Field Operations on August 12, 2015 and February 10, 2016.

with 14,344 U.S. ABTC applications received and processed each year. Among the projected applications processed between FY 2017 and FY 2018, CBP believes that 88 percent will receive approvals based on the historical U.S. ABTC application approval rate. Thus, about 25,000 new individuals will become members of the U.S. ABTC Program from FY 2017 to FY 2018, as Table 3 illustrates. CBP assumes that these 25,000 individuals will generally receive U.S. ABTCs with five-year validity rates and maintain their program membership for the full validity period.

Table 3. Projected Number of Initial U.S. ABTC Membership Approvals and Denials

Fiscal Year	Number of Initial U.S. ABTC Applications Approved (i.e., New U.S. ABTC Program Members)	Number of Initial U.S. ABTC Applications Denied	Total Initial U.S. ABTC Applications Processed
2014*	2,619	273	2,892
2015	10,398	1,401	11,799
2016**	15,286	2,084	17,370
2017***	12,623	1,721	14,344
2018***	12,623	1,721	14,344
Total	53,549	7,200	60,749

*Partial year of historical data spanning from the U.S. ABTC Program's effective date of June 12, 2014 to the end of FY 2014.

**Estimate based on historical data spanning from start of October 2015 to December 2015 and data extrapolated for the remaining months of FY 2016.

***Projection.

Note: Estimates may not sum to total due to rounding.

Without complete data on the number of approved U.S. ABTC applications that corresponded to existing CBP trusted traveler program members, CBP assumes that all of the U.S. ABTC applications submitted between FY 2014 and FY 2018 from individuals already in a CBP trusted traveler program will correspond to an approved application in those respective application years. CBP assumes this because these applicants have already been approved for a trusted traveler program (see Table 2). The remaining U.S. ABTC applications approved during the period of analysis will correspond to individuals who concurrently applied, or will concurrently apply, for the U.S. ABTC program and a CBP trusted traveler program. Table 4

summarizes the number of new, initial U.S. ABTC applications approved according to applicants' CBP trusted traveler membership statuses. As illustrated, CBP estimates that 21,000 initial U.S. ABTC members are expected to already be CBP trusted traveler program members prior to applying for a U.S. ABTC between FY 2014 and FY 2018, while 32,000 are not expected to be current members of a CBP trusted traveler program during that period (see Table 4).

Table 4. Projected Number of U.S. ABTC Applications Approved for Members Already and Not Already in a CBP Trusted Traveler Program

Fiscal Year	Number of Initial U.S. ABTC Applications Approved for Members Already in a CBP Trusted Traveler Program	Number of Initial U.S. ABTC Applications Approved for Members <u>Not</u> Already in a CBP Trusted Traveler Program	Total Initial U.S. ABTC Applications Approved (i.e., U.S. ABTC Program Members) (from Table 3)
2014*	2,126	493	2,619
2015	4,976	5,422	10,398
2016**	4,652	10,634	15,286
2017***	4,652	7,971	12,623
2018***	4,652	7,971	12,623
Total	21,058	32,491	53,549

*Partial year of historical data spanning from the U.S. ABTC Program's effective date of June 12, 2014 to the end of FY 2014.

**Estimate based on historical data spanning from start of October 2015 to December 2015 and data extrapolated for the remaining months of FY 2016.

***Projection.

Note: Estimates may not sum to total due to rounding.

As previously mentioned, the statute authorizing U.S. ABTC issuance currently expires at the end of FY 2018. Consistent with the U.S. ABTC IFR, CBP estimates that the 2,619 members approved for the U.S. ABTC Program in FY 2014 will renew their memberships in FY 2017 upon the expiration of their three-year validity periods (see Table 4). Likewise, CBP estimates that the 10,398 members approved for the U.S. ABTC Program in FY 2015 will renew their memberships in FY 2018 upon the expiration of their three-year validity periods (see Table 4). For continued program use after FY 2018, CBP estimates that the 15,286 U.S. ABTC applicants approved in FY 2016 will renew

their U.S. ABTC Program memberships in FY 2018 before their initial U.S. ABTC validity periods end (see Table 4). As stated in the U.S. ABTC IFR, it is possible that individuals initially approved for the U.S. ABTC Program will change to a job function that does not require conducting APEC business, making them ineligible for a U.S. ABTC. In these cases, CBP assumes that the individual's replacement in that position will enroll in the U.S. ABTC Program, in lieu of the original enrollee, in order to benefit from the expedited immigration process while visiting APEC member economies. Due to the short timeframe between this final rule's implementation and the expiration of the U.S. ABTC Program, CBP does not believe that individuals who enroll in the U.S. ABTC Program between FY 2017 and FY 2018 will renew their memberships during the period of analysis. This is because CBP thinks it is unlikely that these individuals will incur U.S. ABTC application fees and time costs to get less than two years of additional U.S. ABTC use.

Table 5 shows the projected number of U.S. ABTC members who will renew their U.S. ABTC Program memberships during the period of analysis according to their current CBP trusted traveler program membership status. As illustrated, all 28,303 U.S. ABTC applicants approved for memberships prior to FY 2017 will renew their U.S. ABTC memberships by FY 2018's end. In accordance with this rule's extended U.S. ABTC validity period, these members will generally receive U.S. ABTCs that will expire within a five-year validity period lasting up to September 29, 2023. For simplicity of the analysis, CBP counts both the original U.S. ABTC holder who renews and any replacement applicants, if applicable, as a renewal in Table 5. Note that renewals are not forecasted beyond FY 2018 because the statute authorizing the U.S. ABTC expires at the end of that year.

Table 5. Projected Number of U.S. ABTC Program Membership Renewals for Members Already and Not Already in a CBP Trusted Traveler Program

Fiscal Year	Number of U.S. ABTC Renewals from Members Previously in a CBP Trusted Traveler Program	Number of U.S. ABTC Renewals from Members <u>Not</u> Previously in a CBP Trusted Traveler Program	Total U.S. ABTC Renewals
2014	--	--	--
2015	--	--	--
2016**	--	--	--
2017***	2,126	493	2,619
2018***	9,628	16,056	25,684
Total	11,754	16,549	28,303

**Estimate based on historical data spanning from start of October 2015 to December 2015 and data extrapolated for the remaining months of FY 2016.

***Projection.

Note: Estimates may not sum to total due to rounding.

5. Costs

CBP has determined that a \$70 fee is necessary to recover its costs associated with the U.S. ABTC Program. These costs include the cost to issue the U.S. ABTCs and the information technology infrastructure costs, initial and recurring, required to run the U.S. ABTC Program.²⁶ In addition to the U.S. ABTC fee, initial U.S. ABTC applicants will also experience an opportunity cost associated with obtaining a U.S. ABTC. As previously discussed, CBP estimates that new, initial U.S. ABTC applicants who are already members of a CBP trusted traveler program will experience a 1 hour and 10-minute (70-minute) application-related opportunity cost, while U.S. ABTC applicants who are not already members of a CBP trusted traveler program will experience a 1 hour and 40-minute (100-minute) application-related opportunity cost. U.S. ABTC applicants who are not already members of a CBP trusted traveler program are required to pay another fee to join the U.S. ABTC

²⁶ The [Asia-Pacific Economic Cooperation Business Travel Card Fee Study](#) is posted in the docket for this rulemaking on www.regulations.gov.

Program—the \$100 application fee associated with the Global Entry program.²⁷ The Department of Transportation’s guidance on the valuation of travel time for air passengers estimates a business traveler’s value to be \$63.16 per hour.²⁸ Using this estimate as well as the opportunity cost and fees just described, CBP estimates that it will cost a new, initial U.S. ABTC applicant who is already a CBP trusted traveler program member approximately \$144 to join the U.S. ABTC Program.²⁹ For new, initial U.S. ABTC applicants who are not already members of a CBP trusted traveler program, CBP estimates that it will cost approximately \$275 to join the U.S. ABTC Program.³⁰ By applying the U.S. ABTC applicant projections according to CBP trusted traveler program membership statuses (see Table 2) to their respective U.S. ABTC application costs (\$144 for applicants already in a CBP trusted traveler program and \$275 for applicants not already in a CBP trusted traveler program), CBP finds that new, initial U.S. ABTC applicants have incurred or will incur undiscounted costs totaling \$13.9 million during this rule’s period of analysis (see Table 6).

²⁷ As previously discussed, CBP anticipates U.S. ABTC applicants who are not already members of a CBP trusted traveler program will join the Global Entry program.

²⁸ As previously mentioned, this value is based on the U.S. Department of Transportation’s (DOT) guidance regarding the valuation of travel time for business travelers in 2013 U.S. dollars, adjusted to 2017 U.S. dollars using the DOT’s recommended annual growth rate of one percent. Source: U.S. Department of Transportation, Office of Transportation Policy. The Value of Travel Time Savings: Departmental Guidance for Conducting Economic Evaluations Revision 2 (2015 Update). “Table 4 (Revision 2-corrected): Recommended Hourly Values of Travel Time Savings.” 2015. Available at <http://www.transportation.gov/sites/dot.gov/files/docs/Revised%20Departmental%20Guidance%20on%20Valuation%20of%20Travel%20Time%20in%20Economic%20Analysis.pdf>. Accessed February 16, 2016.

²⁹ $\$63.16 \times (70 \text{ minutes}/60 \text{ minutes per hour}) = \73.69 ; $\$73.69 + \$70 \text{ U.S. ABTC fee} = \143.69 , or \$144 when rounded to the nearest dollar. CBP estimates that U.S. ABTC applicants who are already in a CBP trusted traveler program will experience an opportunity cost of 10 minutes to complete a self-certification, schedule an appointment at an enrollment center, and have their signature digitally captured. Additionally, CBP estimates these applicants will experience an opportunity cost of 1 hour (60 minutes) to travel to and from an enrollment center and wait to have their signature digitally captured. In total, CBP estimates U.S. ABTC applicants who are already members of a CBP trusted traveler program will experience an opportunity cost of 70 minutes with this rule.

³⁰ $\$63.16 \times (100 \text{ minutes}/60 \text{ minutes per hour}) = \105.27 ; $\$105.27 + \$100 \text{ Global Entry program fee} + \$70 \text{ U.S. ABTC fee} = \275.27 , or \$275 when rounded to the nearest dollar. CBP estimates that U.S. ABTC applicants who are not already in a CBP trusted traveler program will experience an opportunity cost of 40 minutes to complete the Global Entry application and the U.S. ABTC self-certification, schedule their required Global Entry enrollment interview, pay the program application fees, and have their signature digitally captured for the U.S. ABTC Program. Additionally, CBP estimates these applicants will experience an opportunity cost of 1 hour (60 minutes) to travel to and from an enrollment center and complete the interview for Global Entry. In total, CBP estimates U.S. ABTC applicants who are not already members of a CBP trusted traveler program will experience an opportunity cost of 100 minutes with this rule.

Table 6. U.S. ABTC Program Application Costs to New, Initial Applicants (Undiscounted)

Fiscal Year	Number of Initial U.S. ABTC Applicants Already in a CBP Trusted Traveler Program (A)	Total Application Cost for U.S. ABTC Applicants Already in a CBP Trusted Traveler Program (\$144 x A)	Number of Initial U.S. ABTC Applicants <u>Not</u> Already in a CBP Trusted Traveler Program (B)	Total Application Cost for U.S. ABTC Applicants <u>Not</u> Already in a CBP Trusted Traveler Program (\$275 x B)
2014	2,126	\$306,144	2,477	\$681,175
2015	4,976	\$716,544	8,138	\$2,237,950
2016	4,652	\$669,888	9,692	\$2,665,300
2017	4,652	\$669,888	9,692	\$2,665,300
2018	4,652	\$669,888	9,692	\$2,665,300
Total	21,058	\$3,032,352	39,691	\$10,915,025

As mentioned earlier, CBP estimates that 28,303 U.S. ABTC applicants approved for memberships prior to FY 2017 will successfully renew their U.S. ABTC memberships by FY 2018's end (see Table 5). However, these members will incur different renewal costs according to their initial CBP trusted traveler program membership status. U.S. ABTC members already in a CBP trusted traveler program must complete the U.S. ABTC application (i.e., a self-certification) and pay the U.S. ABTC fee using GOES to renew their U.S. ABTC membership. These members will spend an estimated 10 minutes completing such renewal steps, at an opportunity cost of \$10.53 per renewal.³¹ This contrasts to the IFR's analysis, which assumed that individuals would incur the same time burden when initially applying for or renewing a U.S. ABTC. Because the U.S. ABTC Program's initial digital signature capture requirement is generally not necessary for program membership renewal, CBP no longer believes that the time burdens to apply for and renew U.S. ABTC applications are the same. With U.S. ABTC renewals, members will not have to travel to a CBP trusted traveler enrollment center to have their signature digitally captured, thus decreasing their renewal burden assumed in the IFR. Along with the \$10.53 renewal opportunity cost, U.S. ABTC applicants who

³¹ \$63.16 hourly time for business traveler x (10 minutes/60 minutes per hour) = \$10.53.

were already members of a CBP trusted traveler program will be required to pay the \$70 U.S. ABTC fee upon membership renewal, for a total U.S. ABTC renewal cost of approximately \$81.³² Note that CBP does not consider the costs for current CBP trusted traveler program members to renew their CBP trusted traveler program memberships because they would presumably incur those costs even in the absence of this rule.

Although CBP's trusted traveler program and U.S. ABTC Program validity periods previously differed (five years vs. three years for memberships approved before FY 2017), CBP continues to assume for the simplicity of this analysis that U.S. ABTC applicants who joined a CBP trusted traveler program exclusively for the ability to obtain a U.S. ABTC will concurrently renew their U.S. ABTC and trusted traveler program memberships during the period of analysis. As such, CBP believes that to renew their U.S. ABTC memberships, U.S. ABTC members not previously in a CBP trusted traveler program will concurrently complete the U.S. ABTC application (i.e., a self-certification), Global Entry renewal, and pay the U.S. ABTC and Global Entry fees using GOES. These members will spend an estimated 10 minutes completing such renewal steps, at an opportunity cost of \$10.53 per renewal.³³ This burden contrasts to the IFR's analysis, which assumed that individuals would incur the same time burden when initially applying for or renewing a U.S. ABTC. Because the initial CBP trusted traveler program interview and the U.S. ABTC Program's digital signature capture requirements are generally not necessary for program membership renewals, CBP no longer believes that the time burdens to apply for and renew U.S. ABTC applications are the same. With U.S. ABTC renewals, members will not have to travel to a CBP trusted traveler enrollment center to have their signature digitally captured or undergo another interview, thus

³² \$10.53 opportunity cost to renew U.S. ABTC Program membership + \$70 U.S. ABTC fee = \$80.53, or \$81 when rounded to the nearest dollar.

³³ \$63.16 hourly time for business traveler x (10 minutes/60 minutes per hour) = \$10.53.

decreasing their renewal burden assumed in the IFR. Individuals concurrently renewing their U.S. ABTC and Global Entry memberships will also be required to pay the \$70 U.S. ABTC fee and the \$100 fee associated with the Global Entry program, for a total U.S. ABTC and Global Entry membership renewal cost of about \$181.³⁴

By applying the U.S. ABTC renewal projections according to CBP trusted traveler program membership statuses (see Table 5) to their respective U.S. ABTC membership renewal costs (\$81 for applicants already in a CBP trusted traveler program and \$181 for applicants not already in a CBP trusted traveler program), CBP finds that U.S. ABTC Program members will incur a total undiscounted cost of \$3.9 million to renew their memberships during the period of analysis (see Table 7).

Table 7. U.S. ABTC Program Renewal Costs to Members (Undiscounted)

Fiscal Year	Number of Renewals from Members Previously in a CBP Trusted Traveler Program (A)	Total Renewal Cost for Members Previously in a CBP Trusted Traveler Program (\$81 x A)	Number of Renewals from Members <u>Not</u> Previously in a CBP Trusted Traveler Program (B)	Total Renewal Cost from Members <u>Not</u> Previously in a CBP Trusted Traveler Program (\$181 x B)
2014	--	--	--	--
2015	--	--	--	--
2016	--	--	--	--
2017	2,126	\$172,206	493	\$89,233
2018	9,628	\$779,868	16,056	\$2,906,136
Total	11,754	\$952,074	16,549	\$2,995,369

Accounting for initial application and renewal costs, the total undiscounted cost of this rule is \$17.9 million. In present value terms, the overall cost of this rule will range from approximately \$18.1 million to \$18.3 million from FY 2014 to FY 2018 (see Table 8). The total annualized cost of this

³⁴ \$10.53 opportunity cost to concurrently renew U.S. ABTC and Global Entry Program memberships + \$100 Global Entry program fee + \$70 U.S. ABTC fee = \$180.53, or \$181 when rounded to the nearest dollar.

rule over the period of analysis will equal between \$3.4 million and \$3.5 million. These estimates vary according to the discount rate applied.

Table 8. Total Cost of Rule, FY 2014-FY 2018 (2017 U.S. Dollars)

	3% Discount Rate	7% Discount Rate
Present Value Cost	\$18,061,855	\$18,319,248
Annualized Cost	\$3,504,094	\$3,408,535

6. Benefits

As stated earlier, the U.S. ABTC Program will enable card holders to access fast-track immigration lanes at participating airports in the 20 other APEC member economies. Although the ABTC Program is relatively new for U.S. citizens, it is a well-established program for the other APEC member economies. In an effort to quantify the benefits of the ABTC, APEC commissioned the report “Reducing Business Travel Costs: The Success of APEC’s Business Mobility Initiatives” (APEC Report).³⁵ The APEC Report quantified seven key performance indicators, one of which quantifies the time savings an ABTC holder receives by using its fast-track immigration lanes. As shown in Table 9, the time savings each member economy’s ABTC holders receive can vary greatly. Like in the U.S. ABTC IFR, CBP believes the weighted average time savings of approximately 43 minutes is an appropriate estimate of the time savings a U.S. ABTC holder will receive when clearing foreign immigration services using the fast-track immigration lanes. To the extent that our estimate understates the time saved by U.S. ABTC holders, the benefits of the rule will be higher. Similarly, to the extent that U.S. ABTC holders are able to catch flights they would have otherwise missed due to lengthy immigration waits, the benefits of this rule will be higher.

Table 9. Key Performance Indicator 4 --Total time savings clearing immigration at the border by ABTC holders

³⁵ Asia-Pacific Economic Cooperation. “Reducing Business Travel Costs: The Success of APEC’s Business Mobility Initiatives.” November 2011. Available at http://publications.apec.org/publication-detail.php?pub_id=1214. Accessed May 23, 2012.

Economy	Average Time Savings/ABTC Holder (minutes)	ABTC Holders (2011)	Total Time Savings by ABTC Holders (minutes)
Australia	46.52	24,286	1,129,713
Brunei Darussalam	32.81	43	1,411
Chile	49.33	416	20,520
China	38.74	3,895	150,882
Hong Kong China	26.28	10,659	280,137
Indonesia	60.2	1,495	90,003
Japan	51.49	2,541	130,840
South Korea	43.26	8,422	364,351
Malaysia	66.19	4,140	274,043
Mexico	103.51	185	19,149
New Zealand	48.11	6,538	314,527
Papua New Guinea	27.03	22	595
Peru	40.78	1,277	52,082
Philippines	45.22	476	21,525
Singapore	64.15	8,137	522,013
Thailand	28.94	5,564	161,006
Vietnam	24.29	8,730	212,011
Total	n/a	86,826	3,744,808
Weighted Average	43.13	n/a	n/a

Source: Asia-Pacific Economic Cooperation. "Reducing Business Travel Costs: The Success of APEC's Business Mobility Initiatives." October 2011. Available at http://publications.apec.org/publication-detail.php?pub_id=1214. Accessed May 23, 2012.

As previously discussed, the DOT's guidance regarding the valuation of travel time estimates a business air traveler's value to be \$63.16 per hour. Using this hourly time value and the 43 minutes in time savings from the ABTC per trip, CBP estimates each U.S. ABTC holder will save approximately \$45 per visit to an APEC member economy.³⁶ In addition to the time savings per trip to an APEC member economy, CBP estimates a new, initial U.S. ABTC applicant who is not already a CBP trusted traveler member will also save an additional 7 minutes on net, or \$7 in opportunity

³⁶ \$63.16 x (43 minutes/60 minutes per hour) = \$45.26, or \$45 when rounded to the nearest dollar.

costs, by using a Global Entry kiosk for expedited CBP clearance upon returning to the United States from an APEC economy.³⁷

7. Net Benefits

Because participation in the U.S. ABTC Program is voluntary, the perceived benefits of its reduced wait times have to equal or exceed the cost of the program over five years for potential enrollees to determine whether or not the program is worthwhile to join. As previously discussed, CBP estimates that each U.S. ABTC holder will save approximately \$45 per trip by using the fast-track immigration lanes in foreign APEC member economies. Although CBP is unable to estimate the number of trips each individual U.S. ABTC holder will take to an APEC member economy, CBP can estimate the minimum number of trips a U.S. ABTC holder will have to take over the five-year U.S. ABTC validity period for the benefits of initial U.S. ABTC membership to equal or exceed the costs of initially obtaining a U.S. ABTC by using the estimated savings per trip (\$45) previously described. CBP estimates that a new, initial U.S. ABTC applicant who is already enrolled in a CBP trusted traveler program will need to take a minimum of four trips between the United States and an APEC member economy over five years for the benefits of the U.S. ABTC Program to exceed the costs associated with joining the program.³⁸ Accounting for the \$45 in time savings per trip to an APEC member economy and the \$7 in time savings by using a Global Entry kiosk for expedited CBP clearance upon returning to the United States from an APEC economy, CBP estimates that a new, initial U.S. ABTC applicant who is not already a CBP trusted traveler member will need to take a minimum of six trips between the United States and an APEC member economy over five years for the benefits of the U.S. ABTC Program to exceed the costs associated with joining the program and

³⁷ $\$63.16 \times (7 \text{ minutes}/60 \text{ minutes per hour}) = \7.37 , or \$7 when rounded to the nearest dollar. Source: 77 FR 5681, February 6, 2012.

³⁸ (Rounded) $\$143 \text{ U.S. ABTC opportunity cost and fee}/\$45 \text{ savings per trip} = 3.2 \text{ trips}$.

Global Entry.³⁹ Current U.S. ABTC holders will need to take even fewer trips per year for the benefits of renewing their program memberships to outweigh the costs.

B. The Regulatory Flexibility Act

This section examines the impact of the rule on small entities as required by the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people). Although this rule regulates people and not businesses, a U.S. citizen is required to be either a bona fide U.S. business person engaged in business in the APEC region or a U.S. Government official actively engaged in APEC business in order to qualify for a U.S. ABTC. Therefore, CBP has considered the impact of this rule on small entities.

The U.S. ABTC Program is voluntary and has an initial application cost of approximately \$144 if a U.S. ABTC applicant is a current member of a CBP trusted traveler program or approximately \$275 if a U.S. ABTC applicant must concurrently apply for a U.S. ABTC and a CBP trusted traveler program. While the U.S. ABTC applicant will bear the cost associated with obtaining a U.S. ABTC, a business may voluntarily reimburse the applicant for the fee and his or her opportunity cost. CBP cannot estimate the number of small entities that will voluntarily reimburse its employees. CBP recognizes that it is possible that a substantial number of small entities will be impacted by this regulation. However, CBP does not believe an application cost of either \$144 or \$275, depending on whether a U.S. ABTC applicant is currently enrolled in a CBP trusted traveler

³⁹ (Rounded) \$45 fast-track immigration clearance savings + \$7 expedited CBP clearance savings from Global Entry = \$52 U.S. ABTC holder savings; (Rounded) \$274 U.S. ABTC and Global Entry opportunity cost and fees/\$52 U.S. ABTC holder savings = 5.3 trips.

program, constitutes a significant economic impact. Moreover, as previously discussed, each U.S. ABTC holder will save approximately 43 minutes, or approximately \$45 in opportunity costs, per trip, while new, initial U.S. ABTC applicants who are not already CBP trusted traveler members will also save an additional 7 minutes on net, or \$7 in opportunity costs, by using a Global Entry kiosk for expedited CBP clearance upon returning to the United States from an APEC economy. U.S. ABTC Program members can dedicate these time savings to productive, APEC business-related use. After approximately four or six trips to an APEC member economy, the benefits of an ABTC will exceed the full cost of obtaining a U.S. ABTC (fees + opportunity costs). CBP also notes that a one-time expense of \$144 or \$275, depending on whether the U.S. ABTC applicant is already enrolled in a CBP trusted traveler program, is a fraction of the cost of frequent trans-Pacific travel. Thus, CBP certifies this regulation will not have a significant economic impact on a substantial number of small entities. CBP received no public comments challenging this certification.

C. Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

D. Executive Order 13132

The rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

E. Paperwork Reduction Act

The collections of information in this document will be submitted for review by OMB in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1651–0121. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB. The collections of information in these regulations are contained in Title 8, Part 235 of the CFR. The revisions to OMB clearance 1651–0121 for the U.S. ABTC Program application⁴⁰ reflect the following changes:

U.S. ABTC Applications:⁴¹

Increase in estimated number of annual respondents: 1,643

Increase in estimated number of annual responses: 1,643

Estimated average time burden per response: 10 minutes (0.17 hours)

Increase in estimated total annual time burden: 279 hours

⁴⁰ Source: U.S. Department of Homeland Security, Customs and Border Protection. Supporting Statement for Paperwork Reduction Act Submission: 1651-0121, Trusted Traveler Programs and U.S. APEC Business Travel Card. September 2015. Available at http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201509-1651-002. Accessed March 29, 2016.

⁴¹ CBP estimates that a total of 14,344 applicants will initially apply for U.S. ABTC Program membership each year (see “Executive Order 13563 and Executive Order 12866” section, Table 2- “Total Initial U.S. ABTC Applications” in FY 2017). However, as described in the “Executive Order 13563 and Executive Order 12866” section above, an estimated 4,652 of these applicants will already be current CBP trusted traveler program members, while 9,692 will not. Because the U.S. ABTC Program application requirements differ according to an applicant’s CBP trusted traveler program membership status, the U.S. ABTC application time burdens for individuals will differ. The estimated 4,652 U.S. ABTC applicants who are already CBP trusted traveler program members will incur a time burden of 10 minutes to complete the U.S. ABTC self-certification and have their signature digitally captured at a CBP trusted traveler enrollment center for their U.S. ABTC application. These U.S. ABTC application estimates account for the 4,652 individuals who are already in a CBP trusted traveler program and their related U.S. ABTC application burdens. CBP considers the remaining additional burden to the 9,692 individuals who will concurrently apply for an initial U.S. ABTC and a CBP trusted traveler program membership in the following “Global Entry Applications” estimates. Additionally, CBP estimates that a total of 2,619 existing U.S. ABTC Program members will choose to renew their U.S. ABTC memberships and Global Entry memberships (if they were not already in a CBP trusted traveler program at the time of their initial ABTC application)(see “Executive Order 13563 and Executive Order 12866” section, Table 5- “Total U.S. ABTC Renewals” in FY 2017). For the purposes of this information collection, CBP includes the renewal figures in the overall U.S. ABTC application estimates because the burden for initial U.S. ABTC Program application and renewal are both assumed to be 10 minutes.

Initial U.S. ABTC applicants who join Global Entry to meet a U.S. ABTC Program membership requirement increased the number of Global Entry applications and burden hours as follows:

Global Entry Applications:⁴²

Increase in estimated number of annual respondents: 2,099

Increase in estimated number of annual responses: 2,099

Estimated average time burden per response: 40 minutes (0.67 hours)

Increase in estimated total annual time burden: 1,407 hours

Approved U.S. ABTC members who joined Global Entry for their U.S. ABTC Program membership also increased the Global Entry kiosk usage rate and burden hours through their use of the kiosks for expedited CBP clearance upon returning to the United States from an APEC economy. The additional Global Entry kiosk burden hours directly resulting from the U.S. ABTC Program are as follows:

Global Entry Kiosk Use:⁴³

Increase in estimated number of annual respondents: 11,106

Increase in estimated number of annual responses: 22,212

⁴² Individuals interested in joining the U.S. ABTC Program who are not already CBP trusted traveler members will need to initially apply for a CBP trusted traveler program membership to meet one of the U.S. ABTC Program's membership requirements. CBP estimates that the 9,692 initial applicants who are not already in a CBP trusted traveler program will concurrently apply for the U.S. ABTC Program and CBP's Global Entry trusted traveler program, incurring a 40-minute time burden to complete the Global Entry application, complete the U.S. ABTC self-certification, schedule their required Global Entry enrollment interview, pay the program application fees, and have their signature digitally captured for the U.S. ABTC Program. These initial Global Entry application estimates account for the 9,692 individuals who are not already in a CBP trusted traveler program and their related U.S. ABTC application burdens.

⁴³ CBP now estimates that by the end of FY 2017, 24,520 individuals who were not already members of a CBP trusted traveler program will become joint members of the U.S. ABTC Program and Global Entry (see "Executive Order 13563 and Executive Order 12866" section, Table 4- "Number of Initial U.S. ABTC Applications Approved for Members Not Already in a CBP Trusted Traveler Program" in FY 2014-FY 2017). Due to data limitations, CBP assumes that these 24,520 U.S. ABTC Program members will use Global Entry kiosks twice per year as this is the minimum number of annual trips one of these members would have to take for the benefits of joining the U.S. ABTC Program to outweigh its costs. This translates to an additional 49,040 kiosk responses per year. These Global Entry kiosk use estimates account for the 49,040 kiosk responses and the related burdens.

Estimated average time burden per response: 1 minute (0.016 hours)

Increase in estimated total annual time burden: 356 hours

F. Privacy

DHS will ensure that all Privacy Act requirements and policies are adhered to in the implementation of this rule. In this regard, DHS has updated the Privacy Impact Assessment for the Global Enrollment System (GES) on November 1, 2016, which fully outlines processes to ensure compliance with Privacy Act protections relevant to this rule. See <https://www.dhs.gov/sites/default/files/publications/privacy-pia-cbp-ges-november2016.pdf>.

VII. Authority

This regulation is issued under the authority of 5 U.S.C. 301, 6 U.S.C. 112, 203 and 211, 8 U.S.C. 1103 and 19 U.S.C. 2, 66 and 1624, and Pub. L. 112-54.

List of Subjects

8 CFR Part 235

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

Amendments to Regulations

For the reasons set forth in the preamble, the IFR amending 8 CFR 103.7(b)(1)(ii)(N) and adding a new section 235.13, which was published at 79 FR 27161 on May 13, 2014, is adopted as final with the following changes:

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

1. The authority citation for part 235 continues to read as follows: 8 U.S.C. 1101 and note, 1103, 1183, 1185 (pursuant to E.O.13323, 69 FR 241, 3 CFR, 2004 Comp., p.278), 1201, 1224, 1225, 1226, 1228, 1365a note, 1365b, 1379, 1731-32; Title VII of

Public Law 110-229; 8 U.S.C. 1185 note (section 7209 of Pub. L. 108-458); Pub. L. 112-54.

§235.13 [Amended]

2. Amend § 235.13 as follows:

- a. In paragraph (c)(6), first sentence, remove the number “3” and add in its place the word “five” and remove the words “suspended or”;
- b. Revise the paragraph (f) subject heading to read “Denial and removal”;
- c. In paragraph (f)(2) introductory text, first sentence, remove the words “suspended or”;
- d. In paragraph (f)(3), first and second sentences, remove the words “suspension or”;
- e. In paragraph (f)(4), remove “, suspended,”;
- f. In paragraph (g)(1), remove all occurrences of the phrase “denial, suspension or removal” and add in its place “denial or removal” and remove the words “date of suspension or removal” and add in their place “date of removal”;
- g. In paragraph (g)(2), remove the phrase “denial, suspension or removal” and add in its place “denial or removal”; and
- h. In paragraph (h), second sentence, remove the words “suspended or”.

Date: November 17, 2016

Jeh Charles Johnson,
Secretary.

[FR Doc. 2016-28177 Filed: 11/22/2016 8:45 am; Publication Date: 11/23/2016]